



FILED
8-12-16
04:59 PM

**BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF CALIFORNIA**

Application of Southern California Edison
Company (U338E) for a Permit to Construct
Electrical Facilities With Voltages Between 50 kV
and 200 kV: Moorpark-Newbury 66 kV
Subtransmission Line Project.

A.13-10-021
(Filed October 28, 2013)

**CITIZEN INTERVENORS' AND
CENTER FOR BIOLOGICAL DIVERSITY'S JOINT MOTION TO SET ASIDE
SUBMISSION AND REOPEN THE RECORD FOR THE TAKING OF ADDITIONAL
EVIDENCE**

Filed On Behalf Of Citizen Intervenor:

Alan and Peggy Ludington,
David J. Tanner,
Santa Rosa Valley Estates Homeowners Association,
Krista and Phillip Pederson,
Cheryl M. and Herbert T. Potter,
James Porter, and
Donald and Therese Walker

April Rose Sommer
CENTER FOR BIOLOGICAL DIVERSITY
1547 Palos Verdes Mall # 196
Walnut Creek, CA 94597
Phone: (619) 363-6790
E-Mail: ProtectCommunities@gmail.com
Dated: August 12, 2016

**BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF CALIFORNIA**

Application of Southern California Edison
Company (U338E) for a Permit to Construct
Electrical Facilities With Voltages Between 50 kV
and 200 kV: Moorpark-Newbury 66 kV
Subtransmission Line Project.

A.13-10-021
(Filed October 28, 2013)

**CITIZEN INTERVENORS' AND
CENTER FOR BIOLOGICAL DIVERSITY'S JOINT MOTION TO SET ASIDE
SUBMISSION AND REOPEN THE RECORD FOR THE TAKING OF ADDITIONAL
EVIDENCE**

The Center for Biological Diversity and Citizen Intervenor (“Intervenor”) move that the submission be set aside and the record reopened for the taking of additional evidence that materially affects the Commission’s evaluation of the Application. The Intervenor submit this motion pursuant to Commission Rule 13.14. In addition, based upon violation of Rules 13.13 and 13.14, the Intervenor move that proposed decision to be withdrawn and a new decision issued after new evidence is submitted into evidence, intervenors are permitted to serve data requests upon SCE, parties are permitted to submit legal briefing on the issue, and this proceeding is properly submitted for a decision only “after the taking of evidence, the filing of briefs, and the presentation of oral argument.”

I. The Commission Should Set Aside Submission and Reopen the Record Because Material Changes of Fact Were Discovered after Conclusion of the Hearing.

Pursuant to Commission Rule 13.14, the Intervenor move to set aside submission of this matter and reopen the record to take additional evidence referenced herein. The motion is based on material changes of fact that occurred since the record was submitted, which warrant such relief. The following proposed additional evidence demonstrates the need to reopen the proceeding:

- a) Letter dated August 1, 2016 from the California State University, Channel Islands Site Authority (“Site Authority”) to the Commission submitted as an ex parte communication regarding the reconnection of the Site Authority’s Camgen cogeneration facility (Exhibit A)
- b) Minutes from Site Authority March 2016 meeting (Exhibit B)
- c) Excerpt from memorandum dated 6/15/16 from Matthew Brady, counsel to the Site Authority, to the Site Authority regarding a new power purchase agreement with SCE (Exhibit C)
- d) SCE's 2016 forecast and forecast worksheets.

A. Evidence related to Camgen reconnection

This above-described evidence bears on material issues of fact in this proceeding on the issue of the Camgen reconnection. Intervenors should, therefore, have the opportunity to submit this evidence as well as supporting evidence obtained through data requests on this issue.

SCE justifies this entire proceeding on an alleged need created by the disconnection of the Camgen facility:

The substations serving the ENA have historically received electricity from a variety of different transmission sources in and around Ventura County. Among these sources was a thirdparty generator (Camgen), located on the California State University Channel Islands campus in Camarillo. Energy from that generator was transmitted to the ENA along a portion of SCE’s Camgen-Colonia-Newbury-Thousand Oaks 66 kV Subtransmission Line. However, in 2005, SCE was required to remove a portion of SCE’s Camgen-Colonia-Newbury-Thousand Oaks 66 kV Subtransmission Line due to the loss of property rights. (SCE Exhibit 1 (McCabe), at 5:22-6:1.) The removal of this interconnection resulted in a loss of approximately 28 megawatts (“MWs”) of generation that previously had served the Moorpark 66 kV Subtransmission System. This loss of generation resulted in a situation where a larger portion of the electricity serving the ENA would have to be served from other sources within the Moorpark System, including the M-N-P Line.

The additional burden on the M-N-P Line was projected to cause an overload in 2005 (and in several subsequent years) on the Moorpark-Newbury segment of the line under normal operating conditions. (SCE Exhibit 1, at Attachment A.)

Accordingly, in 2005 SCE began the process of identifying a remedy for the projected overload conditions.”
(SCE Opening Brief at pp. 4-5.)

Yet, even though SCE claims that the disconnection from Camgen created the alleged need for a new transmission line, at no point in this proceeding or any other relevant proceeding did the Applicant willingly disclose the Camgen Reconnection as a solution. SCE did not discuss the Camgen reconnection as an alternative in the advice Letter Proceeding; in its general rate case for 2009, 2012 or 2015; in its Application for PTC; or in its the PEA. This is despite that fact that during the pendency of this proceeding, SCE was in negotiations with the Site Authority for a PPA that would require the reconnection. The alternative only became an issue after it was raised by intervenors, in their comments on the EIR scoping.

At the same time, SCE has made misleading claims regarding the alleged unavailability of reconnection and negotiations with the Site Authority. For example, in its Reply in this proceeding, SCE stated, “Although SCE is obligated to keep confidential the status of its negotiations regarding Camgen, the fact that the CSUCI Site Authority has not taken any further action and continues to discuss the status of those negotiations at its regular meetings confirms that no deal is in place.” (SCE Reply Brief at pp. 23-24.)

In fact, the minutes of that meeting and Site Authority’s letter to the Commission demonstrate that the Site Authority has been and remains willing and able to reconnect and that it is only SCE’s refusal, not the Site Authority’s lack of “further action,” that has made this alternative infeasible. The meeting minutes explain, “[W]hen the negotiations began, CI Power was to provide only emergency backup power for SCE. As negotiations continued, SCE requested that the plant have the ability to run around the clock, seven days a week throughout the year. The financials were then revised to reflect a 10% increase, the amount necessary to accommodate the extended time that CI Power would need to operate. SCE is now in the process of evaluating this.” (Exhibit B.)

It was SCE who backed out of the latest negotiated deal one week before the contract was to take effect and one business day after the PD was issued. The Site Authority explains:

This is to advise the CPUC that the California State University, Channel Islands Site Authority (Site Authority) and the University remain willing to have its co-generation station (Camgen) be the source of energy for the Moorpark Sub Area in, lieu of the Moorpark-Newbury 66 kV subtransmission line. . . Camgen has been a reliable energy facility and the Site Authority is willing to continue the facility's use as an energy source under a new Power Purchase Agreement (PPA) with Southern California Edison (SCE). Our current PPA will expire in 2018.

Although SCE has agreed to several versions of a new PPA, after many attempts they continued to change their position and in May 2016 backed out of the latest negotiated deal one week before the contract was to take effect.

(Exhibit A.)

SCE continues to make misleading representations regarding Camgen. For example, in its the August 12, 2016 ex parte communication disclosure, SCE states that it met with Commisisoner Randolph's advisor and provided written material. In that written material, SCE states, "even CSUCI's letter acknowledges that Camgen would likely be most useful to SCE as a dispatchable unit in order to achieve GHG savings under the Combined Heat and Power Settlement. As a dispatchable unit, Camgen would not be in constant operation and would, therefore, be unable to prevent voltage problems at the moment they occur." (SCE Notice of Ex Parte Communication August 12, 2016.)

In fact, SCE demanded and the Site Authority had agreed to 24 hour, 7 days a week staffing but SCE, *not* the Site Authority, backed out of this deal, as described above in Exhibit B and more fully in Exhibit C, excerpt from memorandum by Site Authority legal counsel:

For example, in February 2016, after SCE had already "accepted" CI's term sheet, they stated that such was no longer acceptable, and that a change was needed in order to meet the requirements of the California Independent System Operator (CAISO). This change required that the plant be fully staffed seven days a week, 24 hours a day, and after confirming with CAISO that those changes were in fact necessary, CI revisited its proposed operating plan to adjust for this new requirement.

Then in March, 2016, CI submitted to SCE an updated term sheet to reflect the costs associated with the 24/7 staffing change, but CI was notified to wait for SCE to complete its evaluation of an unrelated public Request for Proposals (RFP). This notice was given to CI after SCE had informed us that the CI project was separate from SCE's public RFP's.

After two months, on May 10, SCE sent an email stating that they had accepted the updated term sheet, which included the additional staffing, as well as specific contract terms to allow, without penalty, for maintenance and limited outages, with the contract to be effective on June 1. Those changes were not only reflected in the term sheet, but also in the draft of the PPA, which had been provided to SCE in February, 2016.

Upon SCE's counsel's return from vacation, CI learned on May 23 (only one week before the new contract was to go in place), that SCE had capitulated, and was no longer going to accept the May 10 terms. Specifically, CI would incur penalties for maintenance and limited outages. This was not a minor change. Financially, it would make it impossible for CI . . .

(Exhibit C.)

Given that SCE claims this entire proceeding is premised on a need allegedly caused by the disconnection of Camgen, the Camgen reconnection is an issue of material fact that needs to be further investigated and the Center calls upon the Commission to reopen the proceeding to make that possible. Further, SCE's misrepresentations regarding the negotiations with Camgen should be considered especially given the extent that unethical communications and actions have already permeated this proceeding.

B. SCE 2016 Forecasts

SCE justifies this project on the alleged grounds that the disconnection of Camgen caused the existing Moorpark-Newbury-Pharmacy 66 kV line to be inadequate to meet peak demand in the ENA for the foreseeable future. This contention is based upon SCE's 2015-2024 peak demand growth projection for the ENA. Since the hearing in this matter, SCE's forecasts and forecast worksheets have changed. The Intervenor's posit that the most recent forecasts show less projected demand than the previous forecast, and this is a material changes of fact that occurred since the record was submitted and is, therefore, grounds to reopen the proceeding to allow additional evidence regarding updated forecasts. This is especially pertinent here, where the ALJ has filed a proposed decision that relies upon overriding considerations to approve this project. Any overriding considerations would be based upon a demonstration of need and such need is based upon SCE's forecasts and the forecasts in the record are neither current nor accurate.

II. The Proposed Decision Was Filed In Violation Of Commission Rules And In Such A Way That The Intervenors' Interests Were Prejudiced

In this proceeding, Citizen Intervenors properly requested oral argument and so, pursuant to Rule 13.13, have a right to make a final oral argument before the Commission. The ALJ's proposed decision was issued May 20, 2016, prior to the oral argument even being set. Under Rule 13.14, this proceeding is not to be submitted for decision until "*the presentation of oral argument.*" As protected by Rule 13.14, the parties have the right to not just make oral argument but to have the argument actually considered. The issuance of the proposed decision prior to the oral argument violated the rules and also violated parties' right to have their arguments heard and considered.

Because both Rules 13.13 and 13.14 have been violated, the Proposed Decision needs to be withdrawn and a new proposed decision issued that takes into account the oral argument as well as the new evidence to be submitted and relevant legal argument regarding this evidence.

WHEREFORE, the Center moves that the Commission consider the issues set forth and set aside the submission and reopen the record for the taking of additional evidence.

Respectfully submitted,

Center for Biological Diversity

Date: August 12, 2016

By: /s/ April Rose Sommer
April Rose Sommer
CENTER FOR BIOLOGICAL DIVERSITY
1547 Palos Verdes Mall # 196
Walnut Creek, CA 94597
Phone: (619) 363-6790
E-Mail: ProtectCommunities@gmail.com

EXHIBIT A



**SITE
AUTHORITY**
C H A N N E L
I S L A N D S

1 August 2016

California Public Utilities Commission
505 Van Ness Avenue
San Francisco, CA 94102
Re: Moorpark-Newbury PTC, Proceeding No. A13-10-021

Dear Commissioners:

This is to advise the CPUC that the California State University, Channel Islands Site Authority (Site Authority) and the University remain willing to have its co-generation station (Camgen) be the source of energy for the Moorpark Sub Area in lieu of the Moorpark-Newbury 66 kV subtransmission line. Reconnection could be achieved by the approximately 1.5 mile "patch" depicted in the Draft Environmental Impact Report (Figure 4-5, page 4-26), with the exit connection from Camgen to Potrero Road (approximately 1,500 feet). Our requirement for this alternative is that the line on campus be placed underground near or under Camgen's current driveway.

Camgen has been a reliable energy facility and the Site Authority is willing to continue the facility's use as an energy source under a new Power Purchase Agreement (PPA) with Southern California Edison (SCE). Our current PPA will expire in 2018. Although SCE has agreed to several versions of a new PPA, after many attempts they continued to change their position and in May 2016 backed out of the latest negotiated deal one week before the contract was to take effect. This has been a frustrating process.

Camgen is capable of operating as a dispatchable energy source for its capacity of 28 megawatts of energy. It has been producing at this level for over 30 years. It also appears to be a less expensive alternative than the current proposal.

Camgen provides a significant source of revenue for CSUCI. Without a new PPA, the generation station – a University asset – will no longer be used for offsite energy resulting in a substantial loss of revenue to the University. The University is dependent upon public and private partners for its continued operation. The community and Ventura County have been responsive partners toward this end. We ask the Public Utilities Commission to consider, and if deemed viable, encourage the alternative of reconnecting Camgen to the Moorpark Sub Area with underground lines on CSUCI campus, and, with it, the University's continued PPA with SCE.

Sincerely,

A handwritten signature in black ink, appearing to read 'R.J. Considine, Jr.'

R.J. Considine, Jr.
Chair, Site Authority Board

A handwritten signature in black ink, appearing to read 'Richard R. Rush'.

Richard R. Rush
President

cc: Timothy Sullivan, Executive Director

EXHIBIT B



California State University Channel Islands Site Authority MINUTES Regular Meeting Wednesday, March 30, 2016

The California State University Channel Islands (CI) Site Authority (SA) met on Wednesday, March 30, 2016. The meeting was held at the University Glen Corporate Office on the California State University Channel Islands campus, 45 Rincon Drive, Suite 104-A, Camarillo.

Chair of the Site Authority R. J. Considine, Jr. called the meeting to order at 11:34 a.m. The Secretary gave the roll call and a quorum of members was present.

Members Present: Chairperson R. J. Considine, Jr.; Debra Farar; Kathy Long; Linda Parks; Richard R. Rush

Others Present: Pamela Abbott-Mouchou, Secretary to the Site Authority; Chris Fowler, Vi San Juan, Steve Lohr, Francis Freire, CSU Chancellor's Office (CO); John Gormley, Division of Business & Financial Affairs; Erik Blaine, CI Administrative Services; Tom Clark, Stradling Attorneys at Law; Bill Robe, University Glen Board Chair

Approval of Minutes of February 1, 2016 Meeting

Chairperson Considine called for a motion to approve the minutes of the February 1, 2016 meeting. Supervisor Long made the motion; it was seconded by Dr. Farar, and the minutes were approved unanimously.

Public Comment Period (Pursuant to Government Code section 11125.7)

Chairperson Considine called for public comments. A question arose with regard to the sale of the town homes, and how that might affect owners' common area maintenance (CAM) fees. Dr. Blaine responded by saying that the fees would not increase for the next couple of years.

Chairperson Considine asked if there were further public comments, and being that there were none, he closed the public comment period.

Board Member Comment Period

Chairperson Considine called for Board member comments. There were none.

INFORMATION AND ACTION ITEMS

Information: Campus Update (Rush)

Dr. Rush informed the Board that there is a possibility of a faculty strike. He said that he is hopeful that negotiations will be successful, but if not, CI is prepared to offer classes, nonetheless.

Information: CI 2025 Update

Dr. Blaine said that the Request for Proposal (RFP) for the development of the area of University Glen, commonly referred to as Phase 2A/2B, has been released, with submissions due in mid-April.

In other University Glen news, Dr. Blaine said the renters of the 88 townhomes will soon be notified that, as leases become due, tenants will have the option to buy their units, as leases will no longer be available. A decision as to the sales prices is yet to be determined. Supervisor Long asked to see the notification letter that will be sent to the renters, along with the list of FAQ's that is being prepared.

Mr. Gormley, who is the campus architect, said that campus community planning groups have continued to meet to discuss University Glen activities, and these forums will continue throughout the spring semester and into the fall.

Action Item: Sale of 328 Apartments and Town Center

Dr. Blaine distributed a handout that provided further clarification with regard to the transaction's financials. Then, Chairperson Considine called for the motion to approve the sale of the 328 apartments and the Town Center in University Glen. Dr. Farar so moved, with a second offered by Supervisor Long, and the motion was approved unanimously.

Chairperson R. J. Considine, Jr.	Yes
Charlotte Craven	Absent
Debra Farar	Yes
Kathy Long	Yes
Linda Parks	Yes
Steve Relyea	Absent
Richard Rush	Yes

Information: CI Power Plant Update and Southern California Edison Negotiations (SCE) (Blaine/Brady)

Counselor Brady joined the meeting by telephone, and provided a short background to the negotiations that are currently underway with SCE. He informed the Board that when the negotiations began, CI Power was to provide only emergency backup power for SCE. As negotiations continued, SCE requested that the plant have the ability to run around the clock, seven days a week throughout the year. The financials were then revised to reflect a 10% increase, the amount necessary to accommodate the extended time that CI Power would need to operate. SCE is now in the process of evaluating this.

Counselor Brady went on to say that we are nearing a point when the Site Authority will need to invest in interconnection and metering equipment, but this activity is being postponed until a deal is struck. Dr. Rush thanked Counselor Brady for his consummate patience throughout the negotiation process, with Chairperson Considine echoing the sentiment.

Supervisor Long suggested that a synopsis of this process be presented to the Public Utilities Commission. Parks mused that the Newbury Park power line project and the power aggregate power collaboration may have influenced the course of the negotiations.

As the meeting came to a close, Dr. Rush informed the Board that the CI 2025 initiative had been awarded the American Association of University Administrator's John L. Blackburn Award, which recognizes outstanding examples of university leadership that demonstrate creative solutions to common problems in higher educations, and thanked Dr. Blaine and Mr. Gormley for their work on this important initiative.

Dr. Blaine advised the Board that, as requested, the Homeowners Advisory Council minutes had been included in the meeting packets, as had the updated Exhibit C, which reflects the pro rata share of CAM expenses; this was also provided to the University Glen Board of Directors. He added that Ventura Investment Company has begun its property management activities at University Glen. And finally, Dr. Blaine said that the University Glen Board of Directors will now become a committee of the Site Authority, and that additional members would be invited in order to afford the opportunity for the University Glen Board to be more reflective of the entire community. This change is planned to be in effect July 1, 2016.

Prior to adjourning the meeting, Chairperson Considine introduced Bill Robe as the Chairperson of the University Glen Board of Directors.

There being no further business to discuss, the public meeting adjourned at 11:45 a.m.

APPROVED: California State University Channel Islands Site Authority

Signed: 
Secretary to the Site Authority

Dated: May 2, 2016

EXHIBIT C

Memorandum

To: Site Authority Board

From: Matthew V. Brady

Date: June 15, 2016

Re: Cogeneration Project

This is an update on various matters of interest to the Site Authority Board and its members.

New Power Purchase Agreement (PPA) with SCE.

The first issue is the status of the negotiations for a new PPA with Southern California Edison (SCE) for CI Power. After lengthy and intense efforts, the University President and Chair of the Site Authority Board have determined that CI shall cease continuing the negotiations with SCE, based on staff recommendation.

This has been a very frustrating process for CI because, although SCE agreed to each proposal, after a period of time, SCE representatives would change their minds. For example, in February 2016, after SCE had already “accepted” CI’s term sheet, they stated that such was no longer acceptable, and that a change was needed in order to meet the requirements of the California Independent System Operator (CAISO). This change required that the plant be fully staffed seven days a week, 24 hours a day, and after confirming with CAISO that those changes were in fact necessary, CI revisited its proposed operating plan to adjust for this new requirement.

Then in March, 2016, CI submitted to SCE an updated term sheet to reflect the costs associated with the 24/7 staffing change, but CI was notified to wait for SCE to complete its evaluation of an unrelated public Request for Proposals (RFP). This notice was given to CI after SCE had informed us that the CI project was separate from SCE’s public RFP’s.

After two months, on May 10, SCE sent an email stating that they had accepted the updated term sheet, which included the additional staffing, as well as specific contract terms to allow, without penalty, for maintenance and limited outages, with the contract to be effective on June 1. Those changes were not only reflected in the term sheet, but also in the draft of the PPA, which had been provided to SCE in February, 2016.

Upon SCE’s counsel’s return from vacation, CI learned on May 23 (only one week before the new contract was to go in place), that SCE had capitulated, and was no longer going to accept the May 10 terms. Specifically, CI would incur penalties for maintenance and limited outages.

This was not a minor change. Financially, it would make it impossible for CI since

M e m o r a n d u m

June 15, 2016

Page 2

maintenance and unexpected outages would inevitably occur. CI would be paid less, plus be forced to cover the costs that SCE would incur to obtain replacement power during such outages. While SCE stated that this was a CAISO requirement, CAISO tariffs state the exact opposite.

While much can be said about this process, I will let others determine if this was a pretextual excuse on SCE's part or a legitimate change. Other than a response from SCE that we may have misunderstood what they had been saying, we have not heard back from them.

Should SCE desire to restart the negotiations, we would, of course, be willing to sit with them, but that would probably be delayed until later in the fall.

Law Offices of Matthew V. Brady

2339 Gold Meadow Way, Suite 230, Gold River, CA 95670

Telephone (916) 442-5600 -- Facsimile (916) 442-5718 -- e-mail matt@bradylawus.com